

Appl. No. 10/718,376  
Amdt. Dated October 6, 2006  
Reply to Final Office Action of July 11, 2006

### REMARKS/ARGUMENTS

Claims 1-55 are pending in the present application.

This Amendment is in response to the Final Office Action mailed July 11, 2006 to support a Request for Continued Examination (RCE) filed concurrently. In the Final Office Action, the Examiner rejected claims 1 and 7 under 35 U.S.C. §112; claims 1-55 under 35 U.S.C. §103(a). Applicants have amended claims 1, 7, 25, 29, 33, 35, 38, 41-43, 46-47, and 51. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

#### *Rejection Under 35 U.S.C. § 112*

In the Office Action, the Examiner rejected claims 1 and 7 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

In particular, the Examiner states that for claims 1, 33, 35, 38, 42, 43, 47, and 56, the term "service/system" is assumed to mean either "service and system" or "service or system". Therefore, the term "service/system" is indefinite. In response, Applicants have amended claims 1, 33, 35, 38, 42, 43, 47, and 56 to recite "service or systems".

The Examiner further states that for claim 7, the term "movie/feature" is assumed to mean "movie and feature" or "movie or feature"; and therefore, claim 7 is indefinite. In response, Applicants have amended claim 7 to recite "movie or feature".

Therefore, Applicants respectfully request the rejection under 35 U.S.C. §112 be withdrawn.

#### *Rejection Under 35 U.S.C. § 103*

In the Final Office Action, the Examiner rejected claims 1, 2, 4, 5, and 15-24 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0144262 issued to Plotnick et al. ("Plotnick"), U.S. Patent No. 5,748,956 issued to Lafer et al. ("Lafer") and U.S. Patent No. 6,216,265 issued to Roop et al. ("Roop"); claim 3 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop as applied to claim 1 above, and further in view of U.S. Patent No. 7,058,685 issued to van Zee et al. ("van Zee"); claims 6 and 7 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop as applied to claim 1 above, and further in

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view of U.S. Patent No. 6,850,252 issued to Hoffberg ("Hoffberg"); claim 8 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop as applied to claim 1 above, and further in view of Hoffberg and N2Broadband ("Creating Scalable Solutions for VOD...and Beyond"); claims 9-11, and 14 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop as applied to claim 1 above, and further in view of N2Broadband; claims 12 and 13 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop and N2Broadband as applied to claim 11 above, and further in view of Hoffberg; claims 25-27, 31, and 32 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2003/0028890 issued to Swart et al. ("Swart") and U.S. Publication No. 2001/0025255 issued to Gaudian ("Gaudian"); claim 28 under 35 U.S.C. §103(a) as being unpatentable over Swart and Gaudian as applied to claim 27 above, and further in view of U.S. Publication No. 2003/0115454 issued to Piikivi et al. ("Piikivi"); claim 29 under 35 U.S.C. §103(a) as being unpatentable over Swart and Gaudian as applied to claim 25 above, and further in view of Roop; claim 30 under 35 U.S.C. §103(a) as being unpatentable over Swart, Gaudian and Roop as applied to claim 29 above, and further in view of U.S. Patent No. 5,710,887 issued to Chelliah et al. ("Chelliah") and U.S. Patent No. 5,488,714 issued to Skidmore ("Skidmore"); claims 33 and 35 under 35 U.S.C. §103(a) as being unpatentable over Swart and Gaudian as applied to claim 25 above, and further in view of Roop and N2Broadband; claims 34, 36, and 37 under 35 U.S.C. §103(a) as being unpatentable over Swart, Gaudian, Roop, and N2Broadband as applied to claims above, and further in view of Hoffberg; claims 38-40 under 35 U.S.C. §103(a) as being unpatentable over Swart and Gaudian as applied to claim 26 above, and further in view of Roop and Plotnick; claims 41 and 46 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,047,287 issued to Sim et al. ("Sim"), Swart and Gaudian; claims 42, 43, 47, and 48 under 35 U.S.C. §103(a) as being unpatentable over Sim, Swart and Gaudian as applied to the claims above, and further in view of Roop; claims 44, 45, 49, and 50 under 35 U.S.C. §103(a) as being unpatentable over Sim, Swart, Gaudian and Roop as applied to the claims above, and further in view of N2Broadband; claims 51-54 under 35 U.S.C. §103(a) as being unpatentable over Sim, Swart, and Gaudian as applied to claim 46 above, and further in view of Roop and N2Broadband; and claims 55 under 35 U.S.C. §103(a) as being unpatentable over Sim, Swart, and Gaudian as applied to claim 46 above, and

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further in view of Hoffberg. Applicants respectfully traverse the rejections and submit that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143, p. 2100-129 (8th Ed., Rev. 2, May 2004). Applicants respectfully submit that there is no suggestion or motivation to combine their teachings, and thus no *prima facie* case of obviousness has been established.

1. Claims 1, 2, 4, 5, and 15-24:

The Examiner rejected claims 1, 2, 4, 5, and 15-24 under 35 U.S.C. §103(a) as being unpatentable over Plotnick in view of Lafer and Roop (Final Office Action, page 3, paragraph number 5).

Plotnick discloses an alternative advertising in prerecorded media. A set-top box (STB) is used as an ad targeting system (Plotnik, paragraphs [0112]-[0123], [0150]). A communication module interacts with a server side ad management system to upload and download data as required (Plotnik, paragraph [0150]). The system establishes a link that associates the ad metadata with the related advertisements (Plotnik, paragraph [0155]). The system includes headend servers to deliver content and metadata to the set-top boxes (Plotnik, paragraph [0164]).

Lafer discloses a method and system for managing multimedia assets for proper deployment on interactive networks. Lafer discloses a system for managing multimedia assets for proper deployment on interactive networks. An asset management and production system (AMPS) provides a set of tools for managing multimedia assets (Lafer, col. 5, lines 40-43). The AMPS asset tracking function records the assets authored into each composite (Lafer, col. 6, lines 42-43).

Roop discloses a system and method for transmitting and utilizing electronic program guide information. A reception group (RG) descriptor has a number of fields. A cable system name field contains the name of the cable system and the multiple system operator (MSO) name (Roop, col. 67, lines 60-67; col. 68, lines 1-5).

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Plotnick, Lafer, and Roop, taken alone or in any combination, do not disclose, suggest, or render obvious, at least one of: (1) receiving metadata associated with a multimedia asset data file provided by at least one of a content provider and a multiple service or systems operator ("MSO"); (2) coordinating uploading the multimedia asset data file and associated metadata to a video-on-demand ("VOD") server maintained by the MSO, wherein coordinating uploading comprises (a) scheduling uploading the multimedia asset data file and associated metadata to a server maintained by the MSO, and (b) tracking uploading the multimedia asset data file and associated metadata to the server; and (3) providing usage reports relating to usage of multimedia asset data files by end users of the MSO.

Plotnick merely discloses a personal video recorder (PVC) management system which manages the recording of video content so that fast-forwarded advertisements may be replaced with alternative advertisements (Plotnick, paragraphs [0094], [0123]). In fact, Plotnick emphatically teaches that a personal video channel (PVC) is distinct from the VOD system in that the PVC recording is enabled so that users can request a particular program be stored (Plotnick, paragraph [0123]). Accordingly, Plotnick does not disclose and/or suggest uploading the multimedia asset data file and associated metadata to a VOD server maintained by an MSO.

Furthermore, Plotnick merely discloses ad queues as part of an ad management system on the PVRs (Plotnick, paragraph [0134]), not a multimedia asset data file provided by at least one of a content provider and a MSO. The ad targeting system is a software application that may be integrated into a PVR-enable set-top box (STB PVR). An ad insertion module 812 handles the processes necessary to incorporate target ads into television programs, including programs received in real-time or being played from the set-top box's hard disk (Plotnick, paragraph [0150]). Therefore, Plotnick system only functions after the content being delivered or uploaded.

The Examiner cited paragraphs [0150] and [0155] in Plotnick to support his arguments. However, these paragraphs merely discloses the client side STB targeting system 600 (Plotnick, paragraph [0150]) and the ad database 1014 (Plotnick, paragraph [0155]). None of these is related to uploading multimedia asset data file provided by at least one of a content provider and a MSO.

Lafer merely discloses producing multimedia assets, storing multimedia asset data files and identifying information, and categorizing the multimedia asset data files (Lafer, col. 2, lines

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3-12). The AMPS provides a set of tools for managing multimedia assets (Lafer, col. 5, lines 40-43). These functions include: library of assets, asset search engine, asset converters, backup and recovery, archiving, application configuration and installation (Lafer, col. 5, lines 64-67; col. 6, lines 1-6). None of these functions is related to coordinating uploading the multimedia asset data file. Furthermore, the AMPS asset tracking functions merely records the assets authored into each composite (Lafer, col. 6, lines 42-43), not tracking the uploading.

The Examiner cited several excerpts in Lafer to support his contention. But none of these excerpts is related to coordinating uploading, scheduling the uploading, or tracking the uploading. For example, Lafer at col. 7, lines 53-56, merely discloses an asset concept is a reference to a media asset with the precision that allows one to describe the content, copyright, length, sequence, planned usage, etc. (Lafer, col. 7, lines 53-56); Lafer at col. 9, lines 65-67 merely discloses a preloader looks at the composite and loads the next composites based on the transitions defined in the composite that is playing (Lafer, col. 9, lines 65-67). A definition of an asset concept has nothing to do with the action of scheduling the uploading. Loading the next composite merely copies the composite into a memory, which is not related to tracking uploading the asset to a server. Tracking here involves following, observing, monitoring, pursuing, etc., whereas loading merely involves copying or transferring., which has nothing to do with tracking the uploading.

The Examiner further contends that Roop teaches the use of multiple service operator (MSO), citing Roop, col. 67, lines 62-63, and col. 44, lines 55-57 (Final Office Action, page 5, paragraph number 8). Applicants respectfully disagree. For ease of reference, the above excerpts are copied below.

"If cable, this may be a system operated by a Multiple System Operator (MSO). If so, give the name commonly used in the community to identify this cable system. If satellite, give the usual letter/number combination used to refer to this satellite, such as G3 for Galaxy 3." (Roop, col. 67, lines 62-67.)

"The Channel Data is maintained in the Internal Database Engine data structure called the Channel Data table. The Channel Data Table selects the channels accessed by a Region." (Roop, col. 44, lines 55-57.)

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As seen from the above excerpts, Roop merely discloses a television program schedule having an RG record that contains a field identifying an MSO (Roop, col. 67, lines 60-67; col. 68, lines 1-5). Having a record that contains an MSO name does not coordinate uploading, schedule uploading, or track uploading. A name in a record is a static entity, not an action. The excerpt at col. 44, lines 55-57 merely discloses the Channel Data is maintained in the Internal Database Engine data structure, which has nothing to do with an MSO because a data structure is a computer implemented storage, not an entity, a business, or an organization like an MSO.

In rejecting independent claim 20, the Examiner further contends that Lafer and Plotnick disclose receiving the plurality of multimedia asset data files, a plurality of content providers, receiving the metadata, and associated with the multimedia asset data files (Final Office Action, page 5, paragraph 9). However, neither Lafer nor Plotnick discloses the claimed invention for the same reasons as discussed above.

## 2. Claim 3:

The Examiner rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop as applied to claim 1 above, and further in view of van Zee (Final Office Action, page 12, paragraph number 22).

Plotnick, Lafer, and Roop are discussed above.

van Zee discloses a validation and audit of E-media delivery. Checksum values are validated and the appliance receiving the e-media sends back a unique token to the digital content delivery service confirming that the delivery was complete (van Zee, col. 9, lines 7-10).

As discussed above, none of Plotnick, Lafer, and Roop discloses or suggests any elements recited in claim 1 from which claim 3 depends. Accordingly, a combination of any combination of Plotnick, Lafer, and Roop with any other references in rejecting claim 3 is improper.

Furthermore, van Zee merely discloses confirming delivery of electronic media is complete using checksum values, not using the basic metadata associated with the multimedia asset data file. The checksum values refer to the values computed as the sum of the binary data used purpose of error detection and data integrity checking. In contrast, the claim 3 recites confirming delivery using information contained in the basic metadata associated with the multimedia asset data file.

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3. Claims 6 and 7:

The Examiner rejected claims 6 and 7 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop as applied to claim 1 above, and further in view of Hoffberg (Final Office Action, page 14, paragraph number 23).

Plotnick, Lafer, and Roop are discussed above.

Hoffberg discloses an intelligent electronic appliance system and method. An adaptive user interface changes in response to the context, past history, and status of a system (Hoffberg, col. 110, lines 55-56). A metadata stream associated with a content and data relating to the use of consumption of the content is used to determine or update the user profile (Hoffberg, col. 131, lines 61-67). A set top box may integrate functions desired by the content provider or network operator such as video-on-demand, pay per view accounting (Hoffberg, col. 220, lines 34-38). The set top box may store the media or present it in real time, subject to the application of access rules and conditions (Hoffberg, col. 220, lines 49-51).

As discussed above, none of Plotnick, Lafer, and Roop discloses or suggests any elements recited in claim 1 from which claim 6 and 7 depend. Accordingly, a combination of any combination of Plotnick, Lafer, and Roop with any other references in rejecting claims 6 and 7 is improper.

Furthermore, Hoffberg merely discloses a portable human interface system with data from a Web server which may include a binary file, a generic HTML/XML file, or other data type (Hoffberg, col. 111, lines 52-54). The HTML/XML file merely contains the parameters specific to the client or user (Hoffberg, col. 111, lines 54-56), not used for multimedia asset data file and including distribution information, scheduling information, content information, etc., as recited in claim 6.

4. Claim 8:

The Examiner rejected claim 8 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop as applied to claim 1 above, and further in view of Hoffberg and N2Broadband (Final Office Action, page 16, paragraph 25).

Plotnick, Lafer, Roop, and Hoffberg are discussed above.

N2Broadband discloses the MediaPath™ catcher as a multimedia-caching appliance designed for broadcast quality video applications and the MediaPath™ Pitcher to provide a

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unicast and multicast delivery mechanism utilizing industry-standard IP and Pragmatic Generic Multicast protocols.

As discussed above, none of Plotnick, Lafer, Roop, and Hoffberg discloses or suggests any elements recited in claim 1 from which claim 8 depends. Accordingly, a combination of any combination of Plotnick, Lafer, Roop, and Hoffberg with any other references in rejecting claim 8 is improper.

Furthermore, N2Broadband merely discloses a catcher to notify and deliver the package directly to an authorized video server, not to track receipt of the elements of the multimedia asset data file, as recited in claim 8. Similarly, N2Broadband merely discloses a pitcher configured to deliver content via any IP, not to track transmission of the elements of the multimedia asset data file, as recited in claim 8.

#### 5. Claims 9-11, and 14:

The Examiner rejected claims 9-11, and 14 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop as applied to claim 1 above, and further in view of N2Broadband (Final Office Action, page 18, paragraph 26).

Plotnick, Lafer, Roop, and N2Broadband are discussed above.

As discussed above, none of Plotnick, Lafer, and Roop, discloses or suggests any elements recited in claim 1 from which claims 9-11, and 14 depend. Accordingly, a combination of any combination of Plotnick, Lafer, and Roop with any other references in rejecting claims 9-11, and 14 is improper.

Furthermore, as discussed above, N2Broadband merely discloses a catcher to notify and deliver the package directly to an authorized video server, not to provide instructions for the VOD server to request the multimedia asset data file from a catcher, as recited in claim 9. Moreover, none of discloses or suggests tracking retrieval by initiating file transfers using an asset locator.

#### 6. Claims 12 and 13:

The Examiner rejected claims 12 and 13 under 35 U.S.C. §103(a) as being unpatentable over Plotnick, Lafer, and Roop and N2Broadband as applied to claim 11 above, and further in view of Hoffberg (Final Office Action, page 21, paragraph 30).

Plotnick, Lafer, Roop, Hoffberg, and N2Broadband are discussed above.

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As discussed above, none of Plotnick, Lafer, Roop, and N2Broadband discloses or suggests any elements recited in claims 1 and 11 from which claims 12 and 13 depend.

Accordingly, a combination of any combination of Plotnick, Lafer, Roop, and N2Broadband with any other references in rejecting claims 12 and 13 is improper.

Furthermore, Hoffberg merely discloses an alarm transmitting a signal to a user's beeper as part of a smart house interface (Hoffberg, col. 189, lines 53-56; col. 191, lines 14-16), not an alarm from a VOD server if the element was not properly received.

7. Claims 25-27, 31, and 32:

The Examiner rejected claims 25-27, 31, and 32 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2003/0028890 issued to Swart et al. ("Swart") and U.S. Publication No. 2001/0025255 issued to Gaudian ("Gaudian") (Final Office Action, page 22, paragraph number 32).

Swart discloses a video and digital multimedia acquisition and delivery system. Data transferred between a communication server and a content delivery system includes content format metadata and content size and duration metadata (Swart, paragraph [0109]). User profile and history data may be uploaded using Internet connection (Swart, paragraph [0116]).

Gaudian discloses an Internet multi-media exchange. An ingestor offers each branded site an opportunity to authorize specific content providers and allow them to upload digital content files along with the associated metadata tags into their respective sites (Gaudian, paragraph [0017]).

The Examiner recites Swart, paragraph [0116] to support his contention. However, paragraph [0116] merely discloses one or more user data transceivers 285 that comprise software and/or hardware modules that may transmit and receive data other than content data to and from the aggregator 201 and the user terminal 202 (Swart, paragraph [106], emphasis added). These data may include search requests, content download requests, notification prompts, user profile data, etc., but not the metadata or the content.

Furthermore, Swart merely discloses a communication server 250 communicating with the content delivery system 460 to coordinate transfer of content data for delivery to one or more user terminals (Swart, paragraph [0109]), not coordinating uploading the metadata and the content to a server for delivery to an end user according to scheduling and business rules.

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provided by a multiple service or systems operator (MSO). To clarify this aspect of the invention, claim 25 has been amended.

Gaudian merely discloses an ingestor to authorize content providers to upload digital content files into their respective sites, not for delivery to an end user.

8. Claim 28:

The Examiner rejected claim 28 under 35 U.S.C. §103(a) as being unpatentable over Swart and Gaudian as applied to claim 27 above, and further in view of U.S. Publication No. 2003/0115454 issued to Piikivi et al. ("Piikivi") (Final Office Action, page 24, paragraph number 39).

Swart and Gaudian are discussed above.

Piikivi discloses an identification of a data entity. A user equipment is provided with a unique identifier so that the origin of the data content may be reliably determined (Piikivi, paragraph [0035]).

As discussed above, neither Swart nor Gaudian discloses or suggests any elements recited in claim 25 from which claim 28 depends. Accordingly, a combination of Swart and Gaudian with any other references in rejecting claim 28 is improper.

Furthermore, Piikivi merely discloses providing a unique identifier with the user equipment, not the content. The IMEI is assigned for the mobile station, not for the message or the content it transmits. In contrast, claim 28 recites the provider identifier for the content provider and a globally unique identifier for the content, not the equipment.

9. Claim 29:

The Examiner rejected claim 29 under 35 U.S.C. §103(a) as being unpatentable over Swart and Gaudian as applied to claim 25 above, and further in view of Roop (Final Office Action, page 25, paragraph number 40).

Swart, Gaudian, and Roop are discussed above.

As discussed above, neither Swart nor Gaudian discloses or suggests any elements recited in claim 25 from which claim 29 depends. Accordingly, a combination of Swart and Gaudian with any other references in rejecting claim 29 is improper.

The Examiner cites Swart, paragraphs [0117] and [0075] to support his contention. However, paragraph [0117] merely discloses instructions and parameters for production of

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physical content media, or shipping organizations. Paragraph [0075] merely discloses non-linear playback, or simple GUIs. None of these is related to business rules. Business rules include rating filters, pricing rules, category rules, etc. which are the rules concerning the business aspects of the multimedia asset data files, not the production or playback aspects.

Furthermore, as discussed above, Roop merely discloses a television program schedule having an RG record that contains a field identifying an MSO (Roop, col. 67, lines 60-67; col. 68, lines 1-5). Having a record that contains an MSO name does not receive business rules. A name in a record is a static entity, not an action.

10. Claim 30:

The Examiner rejected claim 30 under 35 U.S.C. §103(a) as being unpatentable over Swart, Gaudian and Roop as applied to claim 29 above, and further in view of U.S. Patent No. 5,710,887 issued to Chelliah and Skidmore (Final Office Action, page 26, paragraph number 40). Applicants note that the paragraph number is mistyped.

Swart, Gaudian, and Roop are discussed above.

Chelliah discloses a computer system and method for electronic commerce. A sale representative 114 obtains pricing information from the incentives subsystem to get pricing rules (Chelliah, col. 12, lines 44-50).

Skidmore discloses a computer program analyzer for adapting computer programs to different architectures. To convert OS/3 source code to 64 MB platform, knowledge of the 64 MB conversion requirements is needed (Skidmore, col. 4, lines 13-16).

As discussed above, none of Swart, Gaudian, and Roop discloses or suggests any elements recited in claims 25 and 29 from which claim 30 depends. Accordingly, a combination of Swart, Gaudian, and Roop with any other references in rejecting claim 30 is improper.

Furthermore, Chelliah merely discloses pricing rules in an electronic store transaction, not a content delivery system involving multimedia asset data files. An electronic store transaction does not involve delivery and distribution of content and associated metadata. Accordingly, there cannot be business rules including pricing rules in Chelliah's system. Moreover, Skidmore merely discloses conversion an OS/3 source code to 64 MB platform, not a platform conversion rule as part of a business rule for multimedia asset data files. The conversion as taught by Chelliah is merely related to converting a software package in to

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compatible with a 64 MB platform, not a business rule to govern the business aspects of the distribution and delivery of multimedia asset files.

11. Claims 33 and 35:

The Examiner rejected claims 33 and 35 under 35 U.S.C. §103(a) as being unpatentable over Swart and Gaudian as applied to claim 25 above, and further in view of Roop and N2Broadband (Final Office Action, page 28, paragraph number 41).

Swart, Gaudian, Roop, and N2Broadband are discussed above.

As discussed above, neither Swart nor Gaudian discloses or suggests any elements recited in claims 25 from which claims 33 and 35 depend. Accordingly, a combination of Swart and Gaudian with any other references in rejecting claims 33 and 35 is improper.

Furthermore, as discussed above, Roop merely discloses a television program schedule having an RG record that contains a field identifying an MSO (Roop, col. 67, lines 60-67; col. 68, lines 1-5). Having a record that contains an MSO name does not facilitate delivery of the content to an MSO. A name in a record is a static entity, not an action.

12. Claims 34, 36, and 37:

The Examiner rejected claims 34, 36, and 37 under 35 U.S.C. §103(a) as being unpatentable over Swart, Gaudian, Roop, and N2Broadband as applied to claims above, and further in view of Hoffberg (Final Office Action, page 30, paragraph number 43).

Swart, Gaudian, Roop, N2Broadband, and Hoffberg are discussed above.

As discussed above, none of Swart, Gaudian, Roop, and N2Broadband discloses or suggests any elements recited in claims 25, 33, and 35 from which claims 34, 36, and 37 depend. Accordingly, a combination of Swart, Gaudian, Roop, and N2Broadband with any other references in rejecting claims 34, 36, and 37 is improper.

Furthermore, Hoffberg merely discloses an alarm transmitting a signal to a user's beeper as part of a smart house interface (Hoffberg, col. 189, lines 53-56; col. 191, lines 14-16), not requesting retransmission if an alarm is received from the catcher.

13. Claims 38-40:

The Examiner rejected claims 38-40 under 35 U.S.C. §103(a) as being unpatentable over Swart and Gaudian as applied to claim 26 above, and further in view of Roop and Plotnick (Final Office Action, page 33, paragraph number 46).

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Swart, Gaudian, Roop, and Plotnick are discussed above.

As discussed above, neither Swart nor Gaudian discloses or suggests any elements recited in claims 25 and 26 from which claims 38-40 depend. Accordingly, a combination of Swart and Gaudian with any other references in rejecting claims 38-40 is improper.

Furthermore, as discussed above, Roop merely discloses a television program schedule having an RG record that contains a field identifying an MSO (Roop, col. 67, lines 60-67; col. 68, lines 1-5). Having a record that contains an MSO name does not provide access to a usage report to a MSO. A name in a record is a static entity, not an action.

Moreover, Plotnick merely discloses ad play reports to create reports/logs (Plotnick, paragraph[0169]), not a usage report. A usage report may include a listing of the multimedia content that has been licensed, the estimated time for delivery, the amount storage, etc. These data are not related to the ad reports.

#### 14. Claims 41 and 46:

The Examiner rejected claims 41 and 46 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,047,287 issued to Sim et al. ("Sim"), Swart and Gaudian (Final Office Action, page 35, paragraph number 49).

Sim discloses a method and apparatus for automatically adapting a node in a network. A load balancer's network interface serves as a virtual external interface for a server cluster (Sim, col. 6, lines 59-61). A file metadata holds file metadata related to block files (Sim, col. 37, lines 63-65).

Sim merely discloses a load balancer to distribute a network load to a cluster of servers, not a content management system, as recited in the pre-amble of claim 41. Furthermore, Sim's virtual network interface is merely used for the server cluster, not to an application client. Moreover, Sim merely discloses distributing large files throughout a computer network and delivering such files to an end-user system (Sim, col. 8, lines 42-44), not distributing metadata and content.

Furthermore, Swart merely discloses a communication server 250 communicating with the content delivery system 460 to coordinate transfer of content data for delivery to one or more user terminals (Swart, paragraph [0109]), not coordinating uploading the metadata and the content to a server for delivery to an end user according to scheduling and business rules.

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provided by a multiple service or systems operator (MSO). To clarify this aspect of the invention, claim 41 has been amended.

Gaudian merely discloses an ingestor to authorize content providers to upload digital content files into their respective sites, not for delivery to an end user.

**15. Claims 42, 43, 47, and 48:**

The Examiner rejected claims 42, 43, 47, and 48 under 35 U.S.C. §103(a) as being unpatentable over Sim, Swart and Gaudian as applied to the claims above, and further in view of Roop (Final Office Action, page 38, paragraph number 54).

Sim, Swart, Gaudian, and Roop are discussed above.

As discussed above, none of Sim, Swart and Gaudian discloses any of the elements recited in claim 41 from which claims 42, 43, 47, and 48 depend. Accordingly, a combination of with any other reference in rejecting claims 42, 43, 47, and 48 is improper.

Furthermore, as discussed above, Roop merely discloses a television program schedule having an RG record that contains a field identifying an MSO (Roop, col. 67, lines 60-67; col. 68, lines 1-5). Having a record that contains an MSO name does not manage business rules associated with the content where the business rules are provided by a MSO. A name in a record is a static entity, not an action.

**16. Claims 44, 45, 49, and 50:**

The Examiner rejected claims 44, 45, 49, and 50 under 35 U.S.C. §103(a) as being unpatentable over Sim, Swart, Gaudian and Roop as applied to the claims above, and further in view of N2Broadband (Final Office Action, page 39, paragraph number 56).

Sim, Swart, Gaudian, Roop, and N2Broadband are discussed above.

As discussed above, none of Sim, Swart, Gaudian, and Roop discloses any of the elements recited in claims 41 and 43 from which claims 44, 45, 49, and 50 depend. Accordingly, a combination of Sim, Swart, Gaudian, and Roop with any other reference in rejecting claims 44, 45, 49, and 50 is improper.

Furthermore, N2Broadband merely discloses a catcher to notify and deliver the package directly to an authorized video server or a pitcher configured to deliver content via any IP, not receiving a confirmation call from one of a pitcher and a catcher regarding status of transfer of an element, as recited in claim 44.

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**17. Claims 51-54:**

The Examiner rejected claims 51-54 under 35 U.S.C. §103(a) as being unpatentable over Sim, Swart, and Gaudian as applied to claim 46 above, and further in view of Roop and N2Broadband (Final Office Action, page 41, paragraph number 58).

Sim, Swart, Gaudian, Roop, and N2Broadband are discussed above.

As discussed above, none of Sim, Swart, and Gaudian discloses any of the elements recited in claim 46 from which claims 51-54 depend. Accordingly, a combination of Sim, Swart, and Gaudian with any other reference in rejecting claims 51-54 is improper.

Furthermore, as discussed above, Roop merely discloses a television program schedule having an RG record that contains a field identifying an MSO (Roop, col. 67, lines 60-67; col. 68, lines 1-5). Having a record that contains an MSO name does not transmit the content an the metadata to a MSO, as recited in claim 51. A name in a record is a static entity, not an action.

Moreover, N2Broadband merely discloses a catcher to notify and deliver the package directly to an authorized video server, not to receive transmission from the pitcher via a downlink channel, as recited in claim 51. Similarly, N2Broadband merely discloses a pitcher configured to deliver content via any IP, not to transmit the content and the metadata to a MSO via a distribution channel, as recited in claim 51.

**18. Claim 55:**

The Examiner rejected claims 55 under 35 U.S.C. §103(a) as being unpatentable over Sim, Swart, and Gaudian as applied to claim 46 above, and further in view of Hoffberg (Final Office Action, page 44, paragraph number 62).

Sim, Swart, Gaudian, and Hoffberg are discussed above.

As discussed above, none of Sim, Swart, and Gaudian discloses any of the elements recited in claim 46 from which claim 55 depends. Accordingly, a combination of Sim, Swart, and Gaudian with any other reference in rejecting claims 55 is improper.

The Examiner rejected claims 1-55 under 103(a) using various combinations of the above references with other references. However, none of these references discloses or suggests the combinations. In general, the Examiner cited excerpts in the references but in many cases, these excerpts merely contain the words or phrases in the claims, but do not capture the essence of the invention as a whole.

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In summary, Plotnick, Lafer, Roop, van Zee, Hoffberg, N2Broadband, Swart, Gaudian, Piikivi, Chelliah, Skidmore, and Sim, taken alone or in any combination, do not disclose, suggest, or render obvious any one of the claims 1-55. There is no motivation to combine Plotnick, Lafer, Roop, van Zee, Hoffberg, N2Broadband, Swart, Gaudian, Piikivi, Chelliah, Skidmore, and Sim in any combination because none of them addresses the problem of Video-on-demand management system. Among other things, there is no teaching or suggestion that scheduling uploading or tracking uploading the metadata and the content is present. Among other things, Plotnick, Swart, or Sim, read as a whole, does not suggest the desirability of coordinating uploading the metadata and the content according to scheduling and business rules provided by a MSO. For the above reasons, the rejections under 35 U.S.C. §103(a) are improperly made.

The Examiner failed to establish a prima facie case of obviousness and the motivation to combine the references. When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). "When determining the patentability of a claimed invention which combined two known elements, 'the question is whether there is something in the prior art as a whole suggest the desirability, and thus the obviousness, of making the combination.'" In re Beattie, 974 F.2d 1309, 1312 (Fed. Cir. 1992), 24 USPQ2d 1040; Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1462, 221 USPQ (BNA) 481, 488 (Fed. Cir. 1984). To defeat patentability based on obviousness, the suggestion to make the new product having the claimed characteristics must come from the prior art, not from the hindsight knowledge of the invention. Interconnect Planning Corp. v. Feil, 744 F.2d 1132, 1143, 227 USPQ (BNA) 543, 551 (Fed. Cir. 1985). To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the Examiner to show a motivation to combine the references that create the case of obviousness. In other words, the Examiner must show reasons that a skilled artisan,

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confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the prior elements from the cited prior references for combination in the manner claimed. In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1996), 47 USPQ 2d (BNA) 1453. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or implicitly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973. (Bd.Pat.App.&Inter. 1985). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Furthermore, although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." In re Mills 916 F.2d at 682, 16 USPQ2d at 1432; In re Fritch, 972 F.2d 1260 (Fed. Cir. 1992), 23 USPQ2d 1780.

In the present invention, the cited references do not expressly or implicitly suggest any of the above elements in the claims. In addition, the Examiner failed to present a convincing line of reasoning as to why a combination of Plotnick, Lafer, Roop, van Zee, Hoffberg, N2Broadband, Swart, Gaudian, Piikivi, Chelliah, Skidmore, and Sim is an obvious application of VOD management system having coordinating uploading to a VOD server maintained by a MSO.

Therefore, Applicants believe that independent claims 1, 20, 25, 41, and 46 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicants respectfully request the rejections under 35 U.S.C. §103(a) be withdrawn.

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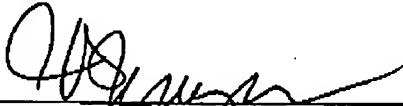
***Conclusion***

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: October 6, 2006

By 

Thinh V. Nguyen  
Reg. No. 42,034  
Tel.: (714) 557-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor  
Los Angeles, California 90025

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